

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

JAVIER ARRELLANO,

Petitioner,

VS.

RICK THALER,

Respondent.

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CIVIL ACTION NO. C-10-211

**ORDER ADOPTING MEMORANDUM AND
RECOMMENDATION TO GRANT
RESPONDENT'S MOTION FOR SUMMARY JUDGMENT**


On September 29, 2010, United States Magistrate Judge Brian L. Owsley signed a Memorandum and Recommendation recommending that respondent's motion for summary judgment (D.E. 13) be granted, that petitioner's habeas petition (D.E. 1) be dismissed, and that petitioner be denied a certificate of appealability. On October 18, 2010, petitioner filed a notice of appeal (D.E. 19) which the Court will construe as Objections to the Magistrate's Recommendations. The notice of appeal originally filed on October 18, 2010, shall further be construed as a notice of appeal to the Fifth Circuit Court of Appeals.

Having reviewed the findings of fact and conclusions of law therein, as well as the pleadings on file and petitioner's objections, and having made a *de novo* disposition of those portions of the Magistrate Judge's recommended disposition to which objections were raised, *see Koetting v. Thompson*, 995 F.2d 37 (5th Cir. 1993), 28 U.S.C. § 636(b)(1)(C); Fed.R.Civ.P.72(b), the Court hereby adopts as its own the findings and conclusions of the Magistrate Judge.

Accordingly, it is ORDERED that respondent's motion for summary judgment is granted and petitioner's habeas petition is dismissed. Petitioner is denied a certificate of appealability.

The clerk shall enter this order and provide a copy to all parties.

SIGNED and ORDERED this 7th day of January, 2011.



Janis Graham Jack
United States District Judge